

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

UNITED STATES OF AMERICA, Plaintiff, )  
  )  
  )  
v.  )  No. 3:12-cv-00397-REP  
  )  
  )  
SUNTRUST MORTGAGE, INC., Defendant. )  
  )  
\_\_\_\_\_ )

**UNOPPOSED MOTION FOR ENTRY OF  
REVISED CONSENT ORDER AND BRIEF IN SUPPORT**

Plaintiff, United States of America, pursuant to Rule 7 of the Federal Rules of Civil Procedure and Local Civil Rule 7(F), hereby moves the Court for entry of the revised proposed Consent Order lodged contemporaneously with this motion to resolve the United States' civil action brought to enforce the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, and the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3619.

The parties worked together to reach agreement on changes reflected in the revised proposed Consent Order to address the concerns raised by the Court, during the June 11, 2012 conference call and the June 26, 2012 hearing, with the proposed Consent Order previously submitted on May 31, 2012. Defendant, SunTrust Mortgage Inc., has authorized the United States to indicate that SunTrust Mortgage consents to the filing of this motion and to entry of the revised Consent Order.

Specifically, to address the Court's concerns, the parties have revised numerous provisions of the proposed Consent Order related to distribution of the Settlement Fund. The revised proposed Consent Order has been amended to specify that the borrowers for precisely 28,984 loans, whose loan numbers are included on a list that the United States has shared with

SunTrust Mortgage, will be eligible to receive compensation from the Settlement Fund upon confirming his or her identity and signing a release. *See Revised Proposed Consent Order ¶¶ 13, 15.* The amount of compensation will be based on the loan fees and costs at issue for each loan, which is also included on the list that the United States has shared with SunTrust Mortgage. *See Revised Proposed Consent Order ¶¶ 13, 15.* The revised proposed Consent Order explicitly provides that the Settlement Fund will remain at \$21 million regardless of the number of borrowers who claim money from it. *See Revised Proposed Consent Order ¶¶ 17, 18.* The revised proposed Consent Order now specifies that the responsibilities of the Settlement Administrator, identified as Rust Consulting, Inc., will be limited to locating the borrowers for the 28,984 loans, using methods regularly used by companies that administer litigation and government enforcement settlement funds, communicating with those borrowers to confirm their identity and willingness to release their individual discrimination claims, and processing payments. *See Revised Proposed Consent Order ¶¶ 14, 16.* The revised proposed Consent Order specifies that no person is a third party beneficiary of the Order, that no person may assert a claim or right as a beneficiary or protected class under the Order, and that no person may request from the Settlement Administrator or the Court any kind of review related to receiving funds from the Settlement Fund. *See Revised Proposed Consent Order ¶¶ 13, 15, 17, 37, 38.*

The parties have also revised provisions of the proposed Consent Order to address concerns raised by the Court unrelated to the distribution of the Settlement Fund. The revised proposed Consent Order eliminates injunctive relief provisions that mirror SunTrust Mortgage's preexisting legal obligations. *See Original Proposed Consent Order ¶¶ 2, 3, 9.* The proposed Consent Order has been amended to provide precise standards upon which the Court can adjudicate the parties' compliance with the Order in the case of unexpected disputes between the

parties. *See, e.g.*, Revised Proposed Consent Order ¶¶ 6, 14 n.8. The revised version also clarifies that the complaint resolution program required by the proposed Consent Order will not review complaints regarding the Settlement Fund. *See* Revised Proposed Consent Order ¶ 7.

The revised proposed Consent Order resolves disputed claims under ECOA and FHA and avoids the expenses and risks of further litigation. *See United States v. North Carolina*, 180 F.3d 574, 581 (4th Cir. 1999) (“In considering whether to enter a proposed consent decree, a district court should be guided by the general principle that settlements are encouraged.”). The United States submits that the revised proposed Consent Order is fair, adequate, and reasonable, and is not illegal, a product of collusion, or against the public interest. *See id.* (setting this standard for entry of a settlement consent decree).

## CONCLUSION

For the foregoing reasons, the Court should enter the revised proposed Consent Order.

Respectfully submitted,

**For Plaintiff United States of America:**

NEIL H. MACBRIDE  
United States Attorney

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division  
STEVEN H. ROSENBAUM  
Chief  
Civil Rights Division  
Housing and Civil Enforcement Section  
JON M. SEWARD  
Deputy Chief  
Civil Rights Division  
Housing and Civil Enforcement Section

---

/s/  
ROBERT P. MCINTOSH  
Virginia Bar Number 66113  
Assistant United States Attorney  
600 E. Main Street, Suite 1800  
Richmond, Virginia 23219  
Email: Robert.McIntosh@usdoj.gov  
Phone: 804-819-5400  
Fax: 804-819-7417

---

/s/  
DANIEL P. MOSTELLER  
Trial Attorney  
United States Department of Justice  
Civil Rights Division  
Housing and Civil Enforcement Section  
950 Pennsylvania Ave., N.W. – NWB  
Washington, D.C. 20530  
Email: Daniel.Mosteller@usdoj.gov  
Phone: 202-514-4713  
Fax: 202-514-1116

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of July, 2012, I will file the foregoing UNOPPOSED MOTION FOR ENTRY OF REVISED CONSENT ORDER with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

ANDREW L. SANDLER  
CAITLIN M. KASMAR  
LIANA R. PRIETO  
BuckleySandler LLP  
1250 24<sup>th</sup> Street NW, Suite 700  
Washington, DC 20037  
asandler@bucklesandler.com  
ckasmar@bucklesandler.com  
lprieto@bucklesandler.com

/s/

\_\_\_\_\_  
Robert P. McIntosh  
Virginia Bar Number 66113  
Attorney for the United States of America  
United States Attorney's Office  
600 East Main Street, Suite 1800  
Richmond, Virginia 23219  
Telephone: (804) 819-5400  
Facsimile: (804) 819-7417  
Email: Robert.McIntosh@usdoj.gov